

FILED AND ENTERED  
ON DOCKET

United States Bankruptcy Court  
District of Nevada

In Re:  
USA Commercial Mortgage Company,  
Debtor

Case No. BK S 06-10725 LBR  
SEP 24 1 14 PM '07

Hearing Date: October 15, 2007 BY COURT  
Time: 10 AM MARY A. SCHOTT, CLERK  
Place: Foley Federal Building  
Courtroom No.1  
300 Las Vegas Blvd So.  
Las Vegas NV 89101

Response to Debtor's Objection to Claimants Opposition of Motion for Summary Judgment

Comes now Erna D. Grundman and Joanne M. Grundman, [herein known as Claimants] under Claim Nos. 10725-01542 and 10725-01544. As of June 2004 to present, Claimants invested in Fiesta Oak Valley aka Oak Mesa, a first deed of trust serviced by USA Commercial Mortgage Company [herein known as Debtor] which is owned by USA Capital. On August 9, 2007, a 90 Day Notice of Default was served on the Borrower of Fiesta Oak Valley by the new loan service agent, Compass Financial Partners.


Claimants object to Debtor's Reply in Support of Motion For Summary Judgment of September 14, 2007, requesting the Court to reclassify Claimants' claims from secured priority to general unsecured claims. Debtor continues to claim USACM holds no interest in Fiesta Oak Valley. Debtor also alleges Claimants failed to meet their burden to prove their claims are secured and/or priority claims by not citing a case or rule that supports how USACM alleged fraud could give rise to a perfected security interest.

Claimants allege Debtor's actions violate *Section 3a of the Bankruptcy Act 1. Fraudulent Conveyance: Conveying....part of the Debtor's property with intent to defraud his creditors...* "As stated in Claimants' Opposition of Debtors Motion for Summary Judgment, the owners of USACM along with Claimants invested in Fiesta Oak Valley. To perpetuate their interest, USACM rather than initiate foreclosure extended the loan in December 2005, (date of maturity) without informing Claimants the financial status (non-performing) of the loan as required by the loan service agreement. Instead, Debtor instructed the Claimants to sign the loan extension papers, and continued paying monthly interest to Claimants. According to prior testimony and/or submitted evidence to the Court, the owners of USACM invested in Fiesta Oak Valley which is now held as collateral by the Court.

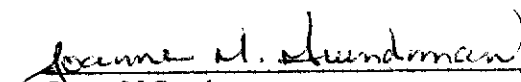
Said acts by Debtor constitute fraud for the acts were done with reckless indifference as to the truth with the intent to cause another to rely thereon, and s/he does rely thereon causing injury. The injury to Claimants by Debtor's actions are retaining Claimants money under false pretense and/or pretext, and causing Claimants to incur a netting liability for the interest monies paid. Based on the aforementioned, Claimants request the Court to reject Debtor's Summary Motion, and to retain Claimants claims as secured/priority claims.

Claimants have served a copy of this Response via US Postal Service first class mailing to Debtor's counsel Lewis and Roca Attn: Susan M. Freeman, 3993 Howard Hughes Parkway, Suite 600 Las Vegas, Nevada 89169.

Respectfully Submitted on September 21, 2007

  
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and

  
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